

EXHIBIT A

DR. JOHN A REPICCI
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July 26, 2021

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<p>1 UNITED STATES DISTRICT COURT</p> <p>2 WESTERN DISTRICT OF NEW YORK</p> <p>3 -----</p> <p>4 DR. JOHN A. REPICCI and LORRAINE REPICCI,</p> <p>5 Individually, and JULIE STONE as Trustee of</p> <p>6 the JOHN A. REPICCI IRREVOCABLE LIFE INSURANCE</p> <p>7 TRUST,</p> <p>8 Plaintiffs, Case No. 1:17-cv-132</p> <p>9 -vs-</p> <p>10 CHRISTOPHER R. JARVIS and OJM GROUP, LLC,</p> <p>11 Defendants.</p> <p>12 -----</p> <p>13 Examination Before Trial of DR.</p> <p>14 JOHN A. REPICCI, held before Brooklyn Morton,</p> <p>15 Notary Public, at MAGAVERN, MAGAVERN & GRIMM,</p> <p>16 LLP, 1100 Rand Building, 14 Lafayette Square,</p> <p>17 Buffalo, New York, on July 26th, 2021,</p> <p>18 commencing at 10:20 a.m., and ending at 12:30</p> <p>19 p.m., pursuant to notice.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 W I T N E S S E S</p> <p>2 WITNESS EXAMINATION PAGE</p> <p>3</p> <p>4 DR. JOHN A. REPICCI</p> <p>5 BY MR. TRACY 5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 EXHIBIT DESCRIPTION PAGE</p> <p>11 A Affidavit 13</p> <p>12 B Letter 21</p> <p>13 C Letter 23</p> <p>14 D Letter 30</p> <p>15 E Letter 43</p> <p>16 F Letter 45</p> <p>17 G In-force illustrations 53</p> <p>18 H Premiums 53</p> <p>19</p> <p>20 (Mr. Grimm retained exhibits.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 A P P E A R A N C E S</p> <p>2 APPEARING FOR THE PLAINTIFFS:</p> <p>3 MAGAVERN, MAGAVERN & GRIMM, LLP</p> <p>4 BY: RICHARD A. GRIMM, ESQ.</p> <p>5 1100 Rand Building</p> <p>6 14 Lafayette Square</p> <p>7 Buffalo, New York 14203</p> <p>8 (716) 856-3500</p> <p>9</p> <p>10 APPEARING REMOTELY FOR THE DEFENDANT</p> <p>11 CHRISTOPHER R. JARVIS:</p> <p>12 WINGET, SPADAFORA &</p> <p>13 SCHWARTZBERG, LLP</p> <p>14 BY: MATTHEW TRACY, ESQ.</p> <p>15 45 Broadway</p> <p>16 32nd Floor</p> <p>17 New York, New York 10006</p> <p>18 (212) 221-6900</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 DR. JOHN A. REPICCI</p> <p>2 MR. TRACY: Good morning. We are</p> <p>3 attending the deposition of Dr. John Repicci.</p> <p>4 My name is Matthew Tracy. We just met.</p> <p>5 I just wanted to note for the record, and</p> <p>6 I have discussed this with counsel, we had had</p> <p>7 some outstanding document discovery and</p> <p>8 interrogatories. Some of it has been</p> <p>9 responded to, some has not.</p> <p>10 We are going to reserve our right to</p> <p>11 recall Dr. Repicci after we have an</p> <p>12 opportunity to review the documents that were</p> <p>13 produced on Friday and obtain some additional</p> <p>14 outstanding discovery. I just wanted to make</p> <p>15 that clear. I think the best thing to do, as</p> <p>16 I indicated to counsel, is go forward today.</p> <p>17 Get as much done as we can, but with the</p> <p>18 understanding that I will likely be recalling</p> <p>19 Dr. Repicci.</p> <p>20</p> <p>21 JOHN A. REPICCI,</p> <p>22 120 Deer Run, Williamsville, New York 14221,</p> <p>23 having been first duly sworn, was examined and</p> <p>24 testified as follows:</p> <p>25</p>

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<p style="text-align: right;">Page 5</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 EXAMINATION BY MR. TRACY:</p> <p>3 Q. Dr. Repicci, again my name is Matthew Tracy.</p> <p>4 Have you ever had your deposition taken</p> <p>5 before?</p> <p>6 A. Probably, yes. I don't recall.</p> <p>7 Q. Okay. Just let me go over a couple of initial</p> <p>8 instructions. This is just basically I will</p> <p>9 be asking you a series of questions. I would</p> <p>10 ask that you answer them verbally because the</p> <p>11 court reporter cannot get down nonverbal</p> <p>12 gestures and the like.</p> <p>13 I would also ask when possible if you</p> <p>14 could just wait for me to finish my question</p> <p>15 before answering. A lot of times in</p> <p>16 conversation you will anticipate what I am</p> <p>17 going to say and then we end up talking over</p> <p>18 each other. And I will extend the same</p> <p>19 courtesy to you.</p> <p>20 Do you understand that so far?</p> <p>21 A. Yes.</p> <p>22 Q. And what did you do today in preparation for</p> <p>23 today's deposition?</p> <p>24 A. Nothing.</p> <p>25 Q. Did you review any documents?</p>	<p style="text-align: right;">Page 7</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 and my daughter in my practice.</p> <p>3 Q. And for how long had you been practicing in</p> <p>4 that fashion?</p> <p>5 A. Probably 15 years or so.</p> <p>6 Q. And I guess down to about 2003. Am I correct</p> <p>7 in that?</p> <p>8 A. Probably given the age of my daughter and</p> <p>9 son-in-law.</p> <p>10 Q. Okay. Prior to practicing with your daughter</p> <p>11 and son-in-law, where had you been practicing?</p> <p>12 A. Orthopedic surgery in Buffalo, New York.</p> <p>13 Q. And when you say orthopedic surgery, was that</p> <p>14 just yourself or were there other physicians</p> <p>15 or something else?</p> <p>16 A. It was just myself.</p> <p>17 Q. And for how long did you do that?</p> <p>18 A. Well, I practiced general orthopedic surgery</p> <p>19 for probably about 20 years and then I did</p> <p>20 joint replacements primarily for the last 20,</p> <p>21 25 years.</p> <p>22 Q. Okay. And when you did your practice -- and</p> <p>23 this is before practicing with your son-in-law</p> <p>24 and daughter, did you have your own separate</p> <p>25 office or did you work with a hospital?</p>
<p style="text-align: right;">Page 6</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. No.</p> <p>3 Q. Okay. Can you then just briefly describe your</p> <p>4 educational employment background?</p> <p>5 A. I have a degrees in dentistry and a degree in</p> <p>6 medicine and I practiced in orthopedic surgery</p> <p>7 for a number of years until three years ago.</p> <p>8 Q. And so your retirement was in 2018; is that</p> <p>9 correct?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Okay. And what year did you obtain your</p> <p>12 degree in dentistry?</p> <p>13 A. My medical degree?</p> <p>14 Q. Yes.</p> <p>15 A. 1963.</p> <p>16 Q. And just fast forwarding a little bit, when</p> <p>17 did you become involved in orthopedic surgery?</p> <p>18 A. Well, I took an orthopedic residency and I</p> <p>19 finished that, I believe, in 1969 and I have</p> <p>20 been practicing orthopedic surgery since 1969.</p> <p>21 Q. Okay. Just before your retirement in 2018 did</p> <p>22 you have a medical practice of your own or</p> <p>23 were you affiliated with someone else, or</p> <p>24 something different?</p> <p>25 A. I had a practice of my own with my son-in-law</p>	<p style="text-align: right;">Page 8</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I had my own office and worked at various</p> <p>3 hospitals.</p> <p>4 Q. And in your own office, did you have any</p> <p>5 employees?</p> <p>6 A. Yes.</p> <p>7 Q. How many employees did you have?</p> <p>8 A. I don't really recall, but I probably had at</p> <p>9 least 10 or 12.</p> <p>10 Q. And did you operate the business as a sole</p> <p>11 proprietorship, as an LLC, an LLP, or</p> <p>12 something different?</p> <p>13 A. LLC.</p> <p>14 Q. I am sorry?</p> <p>15 A. An LLC.</p> <p>16 Q. And other than yourself, were there any other</p> <p>17 members of the LLC?</p> <p>18 A. I don't recall the total organization. I was</p> <p>19 the LLC by myself when I started and I believe</p> <p>20 that my son-in-law and daughter were part of</p> <p>21 it as we continued.</p> <p>22 Q. And to the best of your recollection, when did</p> <p>23 you start your LLC?</p> <p>24 A. I don't recall.</p> <p>25 Q. And if you can recall, do you recall who did</p>

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<p style="text-align: right;">Page 9</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 the paperwork to form the LLC?</p> <p>3 A. I would have had our attorneys and our</p> <p>4 accountants take care of all of that.</p> <p>5 Q. Sure. And to the best of your recollection,</p> <p>6 who were your attorneys and accountants?</p> <p>7 A. You know, I hate to say this, but I really</p> <p>8 didn't really deal in the legal and monetary</p> <p>9 aspects. My wife did that type of stuff. I</p> <p>10 just dealt with the professional type of</p> <p>11 things.</p> <p>12 Q. And your wife was Lorraine Repicci; is that</p> <p>13 correct?</p> <p>14 A. Right.</p> <p>15 Q. And what role did she have with your practice?</p> <p>16 A. Basically she handled the finances in terms of</p> <p>17 deposits and all of that type of stuff with my</p> <p>18 accountant and she actually -- any checks that</p> <p>19 had to be written were handled by her.</p> <p>20 Q. And who was your accountant?</p> <p>21 A. Hy Polakoff and his group.</p> <p>22 Q. And for approximately how long was Hy Polakoff</p> <p>23 your accountant?</p> <p>24 A. My life time.</p> <p>25 Q. And do you recall, as best as you can, it</p>	<p style="text-align: right;">Page 11</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. And did you have -- in the early 2000s did you</p> <p>3 have at least informally any plan on when you</p> <p>4 were going to retire?</p> <p>5 A. I never planned on retiring.</p> <p>6 Q. In the early 2000s did you have any brokerage</p> <p>7 accounts?</p> <p>8 A. Yes.</p> <p>9 Q. Who did you have brokerage accounts with?</p> <p>10 A. Merrill Lynch.</p> <p>11 Q. Did you have a particular representative at</p> <p>12 Merrill Lynch that you utilized?</p> <p>13 A. I can't recall at this time.</p> <p>14 Q. Did you ever have a stockbroker that you can</p> <p>15 recall using on a regular basis?</p> <p>16 A. I didn't buy individual stocks.</p> <p>17 Q. What kind of stocks did you buy, if any?</p> <p>18 A. Basically the -- Marine Midland ran one and</p> <p>19 Fisher Investments ran the other account and</p> <p>20 that is basically my investment accounts.</p> <p>21 MR. TRACY: Can you just read that part</p> <p>22 back? I just want to make sure I understood</p> <p>23 it.</p> <p>24 A. Pardon me? Marine Midland Bank did one of my</p> <p>25 -- runs one of my accounts and Fisher</p>
<p style="text-align: right;">Page 10</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 sounds like it has been a 50-year</p> <p>3 relationship, how you came to work with Hy</p> <p>4 Polakoff?</p> <p>5 A. Yes. My father-in-law was a local executive</p> <p>6 and he used that law firm for his purposes and</p> <p>7 so he signed me up with that law firm and I</p> <p>8 continued.</p> <p>9 Q. And what was your father-in-law's name?</p> <p>10 A. Hubert, Norbert Hubert.</p> <p>11 Q. And he was an executive where, if you can</p> <p>12 recall?</p> <p>13 A. It was a clothing company in Buffalo and he</p> <p>14 was the executive there.</p> <p>15 Q. And I am going to try to narrow down the</p> <p>16 timeframe to approximately the early 2000s.</p> <p>17 How frequent would you meet with Hy Polakoff,</p> <p>18 if at all?</p> <p>19 A. If I met him, it was maybe once a year. My</p> <p>20 wife did all that stuff. I didn't deal with</p> <p>21 the financial aspects of the business.</p> <p>22 Q. In that timeframe, just around the early</p> <p>23 2000s, had you utilized any estate planning,</p> <p>24 prior to meeting Mr. Polakoff?</p> <p>25 A. I don't recall. No.</p>	<p style="text-align: right;">Page 12</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Investments runs the other account.</p> <p>3 Q. Thank you. And did you have a particular</p> <p>4 contact person at Marine Midland Bank that you</p> <p>5 would deal with on those investments?</p> <p>6 A. My wife did all of the financial things so I</p> <p>7 don't really recall the individuals by name.</p> <p>8 Q. And how about Fisher Investments, if you</p> <p>9 recall?</p> <p>10 A. Well, that is pretty much the same way.</p> <p>11 Somebody at Fisher manages it and communicates</p> <p>12 with my wife.</p> <p>13 MR. TRACY: Richard, could you show</p> <p>14 Dr. Repicci his affidavit, which is one of the</p> <p>15 documents I uploaded? And we will mark it.</p> <p>16 MR. GRIMM: Are you referring to the</p> <p>17 affidavit that was filed in this case, so</p> <p>18 Document 13 in this case?</p> <p>19 MR. TRACY: That would be correct.</p> <p>20 MR. GRIMM: Okay. You want me to mark</p> <p>21 it as one exhibit together with the exhibits?</p> <p>22 MR. TRACY: Just make it a stand alone.</p> <p>23 MR. GRIMM: Okay.</p> <p>24 MR. TRACY: You can hand that to the</p> <p>25 court reporter. This will be Defendant's A.</p>

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<p style="text-align: right;">Page 13</p> <p>1 DR. JOHN A. REPICCI</p> <p>2</p> <p>3 The following were marked for identification:</p> <p>4 Exhibit A - Affidavit</p> <p>5</p> <p>6 BY MR. TRACY:</p> <p>7 Q. Dr. Repicci, I would just ask you to take a</p> <p>8 quick look at this document. You don't have</p> <p>9 to memorize it, but just look it over quickly.</p> <p>10 A. I looked it over.</p> <p>11 Q. Okay. Do you recall seeing this document?</p> <p>12 A. I recall seeing it, yes.</p> <p>13 Q. And while it has an electronic signature, do</p> <p>14 you recall approving of this document and</p> <p>15 signing it?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. If you look at paragraph 2, second</p> <p>18 sentence. It states, "I believe I first</p> <p>19 became acquainted with Defendant Christopher</p> <p>20 Jarvis at a medical convention sometime prior</p> <p>21 to the year 2002."</p> <p>22 Do you have any recollection of what</p> <p>23 particular medical convention that was at or</p> <p>24 more of the circumstances behind it?</p> <p>25 A. No, I do not.</p>	<p style="text-align: right;">Page 15</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 would assume that meetings did occur in</p> <p>3 Buffalo.</p> <p>4 Q. And if they occurred in Buffalo, to the best</p> <p>5 of your recollection, would they be in your</p> <p>6 office, at a restaurant, or something else?</p> <p>7 A. Probably a restaurant or something of that</p> <p>8 category. I don't really meet people in the</p> <p>9 office or in my home anymore than necessary.</p> <p>10 Q. Okay. Fair enough. It says, "Spoke by</p> <p>11 phone." Would you say it is fair to say you</p> <p>12 spoke by phone with Mr. Jarvis more or met him</p> <p>13 in person more?</p> <p>14 A. More by phone.</p> <p>15 Q. Okay. The next sentence is: "We discussed in</p> <p>16 great detail our family financial status and</p> <p>17 our long term goals." What was at the time --</p> <p>18 this is late 2001, early 2002. What was your</p> <p>19 family and financial status?</p> <p>20 A. Well, I was, you know, making a decent living</p> <p>21 and I had some financial assets and I would</p> <p>22 like to leave them to my children, if at all</p> <p>23 possible.</p> <p>24 MR. TRACY: Excuse me. Just give me one</p> <p>25 second. My phone is ringing.</p>
<p style="text-align: right;">Page 14</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. Okay. And do you recall -- he gave you a book</p> <p>3 that he had co-written on the summary. Do you</p> <p>4 still have that book?</p> <p>5 A. I probably have it, yes.</p> <p>6 Q. Okay. I will put this in writing. I would</p> <p>7 ask for a copy of it to the extent you still</p> <p>8 have it.</p> <p>9 And you agreed to meet with him. This was</p> <p>10 in paragraph 2. Where did you -- did you</p> <p>11 agree at the conference or were you going to</p> <p>12 meet him at a later date, or something else?</p> <p>13 A. This was 20 years ago, but I did meet with him</p> <p>14 personally and I forgot exactly where.</p> <p>15 Whether it was at the conference or in</p> <p>16 Buffalo, I don't recall.</p> <p>17 Q. Did you ever travel anywhere yourself to meet</p> <p>18 with him?</p> <p>19 A. Not that I recall, no.</p> <p>20 Q. And if you look at paragraph 3, it indicates,</p> <p>21 "Over many months we met and spoke by phone</p> <p>22 numerous times." And would you say those</p> <p>23 meetings took place in Buffalo? Is that what</p> <p>24 you're saying?</p> <p>25 A. I don't really recall specifically, but I</p>	<p style="text-align: right;">Page 16</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 THE WITNESS: Sure.</p> <p>3</p> <p>4 (Off the record.)</p> <p>5</p> <p>6 BY MR. TRACY:</p> <p>7 Q. Okay. Did you have any retirement type of</p> <p>8 goals that you discussed with him?</p> <p>9 A. Retirement goals, we had a retirement plan and</p> <p>10 we discussed whatever the plan was with him,</p> <p>11 yes.</p> <p>12 Q. When you say that you had a retirement plan,</p> <p>13 did you have something that predated</p> <p>14 Mr. Jarvis, or was that something you were</p> <p>15 discussing with him?</p> <p>16 A. No. We were just saving funds for retirement</p> <p>17 and he was going to run this program for us</p> <p>18 and we had an IRA, I believe.</p> <p>19 Q. Okay. And did your wife have discussions with</p> <p>20 Mr. Jarvis at this time?</p> <p>21 A. I am sure she did. My wife functioned not so</p> <p>22 much on the decision basis, but as a record</p> <p>23 keeping basis. She wrote all the checks and</p> <p>24 took care of all the paperwork.</p> <p>25 Q. But, the decisions would be made by you?</p>

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<p style="text-align: right;">Page 17</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I made the decisions, yes.</p> <p>3 Q. And going back to the affidavit for a second,</p> <p>4 it says, "Jarvis repeatedly assured me of his</p> <p>5 expertise and competency as a wealth advisor."</p> <p>6 How did he repeatedly assure you? Would</p> <p>7 he do that on the phone, in writing, or how</p> <p>8 did that --</p> <p>9 A. Well, I think he initially presented at a</p> <p>10 medical conference of some sort where I heard</p> <p>11 him speak and then I heard him before and I</p> <p>12 was very impressed with his overall</p> <p>13 presentations and so forth. And we are</p> <p>14 talking 20 years ago, but I was very impressed</p> <p>15 with his organization and with his</p> <p>16 presentations and also with his associates,</p> <p>17 who I also discussed things with.</p> <p>18 Q. Okay. And when you say "associates," who</p> <p>19 would that be, if you recall?</p> <p>20 A. I think it was Mandell and there was also a</p> <p>21 lawyer involved. A female lawyer.</p> <p>22 Q. Would that be Celia Clark?</p> <p>23 A. Celia Clark, yes.</p> <p>24 Q. Okay. And he -- I am going back to the</p> <p>25 affidavit again. "He also assured me that he</p>	<p style="text-align: right;">Page 19</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 various estate plan issues, but he was</p> <p>3 supposed to be taking care of the life</p> <p>4 insurance.</p> <p>5 Q. Okay. He is taking care of the life</p> <p>6 insurance. And it is fair to state that the</p> <p>7 -- well, let me ask you this. I will ask it</p> <p>8 this way, and correct me if I am wrong. My</p> <p>9 understanding of this is they were going to</p> <p>10 take approximately \$4 million of your IRA, put</p> <p>11 that into insurance and take it out of your</p> <p>12 estate and your heirs would receive about</p> <p>13 approximately \$14 million in tax free</p> <p>14 benefits. Is that the basis part of the plan?</p> <p>15 A. I don't recall all of those details, but that</p> <p>16 sounds like the basis, yes.</p> <p>17 Q. And was one of the goals to reduce your income</p> <p>18 tax on the IRA?</p> <p>19 A. The number one goal was to provide assets to</p> <p>20 my heirs and reduce the tax, yes.</p> <p>21 Q. Okay. And were your taxes reduced as a result</p> <p>22 of this?</p> <p>23 A. I think so, but I don't really follow the</p> <p>24 taxes. I am a doctor. I don't do that.</p> <p>25 Q. Who would know that?</p>
<p style="text-align: right;">Page 18</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 would oversee and monitor any plan we put in</p> <p>3 place and that he would continue to advise us</p> <p>4 throughout the duration of any plan as</p> <p>5 demonstrated by the various correspondence."</p> <p>6 My question is: Other than the</p> <p>7 correspondence, did he give you any other oral</p> <p>8 assurances that he was going to oversee and</p> <p>9 monitor any planning of yours?</p> <p>10 A. Yeah. He was a very impressive person and he</p> <p>11 had great recommendations. The book looked</p> <p>12 good and his partner, Mandell, and that lawyer</p> <p>13 were quite good and I was very impressed.</p> <p>14 Q. Not exactly my question. I understand that,</p> <p>15 but my question is: Did he orally assure you</p> <p>16 at any time that he was going to oversee and</p> <p>17 monitor a retirement plan?</p> <p>18 A. Yes. That was all part of the program.</p> <p>19 Q. When did he orally --</p> <p>20 A. When he initiated this program, he assured me</p> <p>21 that he would take care of this corner.</p> <p>22 Q. He would take care of this corner. What did</p> <p>23 you understand that to be?</p> <p>24 A. These life insurance policies that we were</p> <p>25 dealing with and he was also discussing</p>	<p style="text-align: right;">Page 20</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. Hy Polakoff and my wife would know the</p> <p>3 financial aspects.</p> <p>4 Q. Now, to the best of your recollection, we are</p> <p>5 now into 2002 and Chris Jarvis is trying to</p> <p>6 obtain insurance for you did you -- strike</p> <p>7 that.</p> <p>8 How many times in 2002 do you think you</p> <p>9 physically met with Chris Jarvis?</p> <p>10 A. I don't really recall, but I did meet with him</p> <p>11 several times and I was impressed.</p> <p>12 Q. Okay. At those meetings, to the best of your</p> <p>13 recollection, was either your wife or Hy</p> <p>14 Polakoff present at any of those meetings?</p> <p>15 A. I don't recall. Hy Polakoff would not be, to</p> <p>16 my understanding. My wife might be</p> <p>17 incidentally.</p> <p>18 MR. TRACY: Okay. Richard, if you could</p> <p>19 show Dr. Repicci, it is the October 1, 2002,</p> <p>20 letter. It is with Exhibit A to the</p> <p>21 affidavit. It is Document 13-1. It was filed</p> <p>22 on 5/12/17. We will mark this as Exhibit B.</p> <p>23 MR. GRIMM: I have this as -- mine has</p> <p>24 Exhibit A from the affidavit on it. Is it</p> <p>25 okay if I mark it with that Exhibit A on it or</p>

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<p style="text-align: right;">Page 21</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 do you want me to take that off?</p> <p>3 MR. TRACY: No. You can leave that on.</p> <p>4 MR. GRIMM: Okay. And it is a four or</p> <p>5 five-page document, right?</p> <p>6 MR. TRACY: This one is nine, yeah.</p> <p>7 MR. GRIMM: Nine? Okay. Hold on.</p> <p>8</p> <p>9 The following were marked for identification:</p> <p>10 Exhibit B - Letter</p> <p>11</p> <p>12 BY MR. TRACY:</p> <p>13 Q. All right. Could you look at the last page on</p> <p>14 this document, which is an outline of plan for</p> <p>15 IRA assets?</p> <p>16 A. Okay.</p> <p>17 Q. Do you recognize any of that handwritten</p> <p>18 writing?</p> <p>19 A. I don't really recall any of that specific</p> <p>20 information.</p> <p>21 Q. But, I am just asking if you recognize any of</p> <p>22 the -- there is like, "3,000,000 paid."</p> <p>23 "1,100,000 private money." I mean --</p> <p>24 A. Yeah. That is my handwriting basically. So I</p> <p>25 did write that at that time. "3,000,000</p>	<p style="text-align: right;">Page 23</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 from Chris Jarvis.</p> <p>3</p> <p>4 The following were marked for identification:</p> <p>5 Exhibit C - Letter</p> <p>6</p> <p>7 BY MR. TRACY:</p> <p>8 Q. Do you recall seeing this document?</p> <p>9 A. I recall seeing it now, but not in the past,</p> <p>10 no.</p> <p>11 Q. Okay. Do you recall having discussions with</p> <p>12 Hy Polakoff or anybody about the fact that the</p> <p>13 Lincoln life insurance policy was not</p> <p>14 guaranteed past about 15 years?</p> <p>15 A. I don't recall discussing it with anyone. I</p> <p>16 do remember that Chris assured me that there</p> <p>17 would be no problems. This insurance would</p> <p>18 cover for 100 years. That is all I recall.</p> <p>19 Q. So you don't recall having any discussion with</p> <p>20 Hy Polakoff about that?</p> <p>21 A. No. Not at all.</p> <p>22 Q. And do you recall -- well, let me ask you</p> <p>23 this: What was your goal with the life</p> <p>24 insurance policy of Lincoln? How long did you</p> <p>25 want it to last?</p>
<p style="text-align: right;">Page 22</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 paid." "1,100,000 private money." And then</p> <p>3 -- so that is my handwriting so I did do that,</p> <p>4 but I don't really recall specifically.</p> <p>5 Q. In 2002 in addition to your IRA, roughly what</p> <p>6 other assets did you have?</p> <p>7 A. 2002, I would find it difficult to get back in</p> <p>8 that time, but I would imagine maybe</p> <p>9 \$20,000,000. I am guessing, but I would</p> <p>10 imagine \$20,000,000.</p> <p>11 Q. And roughly of that \$20,000,000, you said 4</p> <p>12 would be in an IRA. How much would be in a</p> <p>13 brokerage account?</p> <p>14 A. Well, 4 in an IRA, then probably 2 or 3 in</p> <p>15 property and the rest would be in brokerage</p> <p>16 accounts.</p> <p>17 Q. Got it. Okay. And you had discussed that</p> <p>18 with Mr. Jarvis, correct?</p> <p>19 A. I am sure. Yes.</p> <p>20 Q. And so Mr. Jarvis' role was with respect to</p> <p>21 the IRA. Is that fair to say?</p> <p>22 A. IRA and life insurance. That was his era.</p> <p>23 MR. TRACY: Okay. Richard, if you could</p> <p>24 show Dr. Repicci, this would be Exhibit C, is</p> <p>25 the October 9th, 2002, document to Hy Polakoff</p>	<p style="text-align: right;">Page 24</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I wanted it to last until after I died.</p> <p>3 Q. Always fair. Was that age 100? Would age 95</p> <p>4 be okay or what --</p> <p>5 A. I think that when I looked at whatever</p> <p>6 documents there were it was sort of, like, 95,</p> <p>7 but Chris assured me that even if I lived to</p> <p>8 be 100, that they would take care of it.</p> <p>9 Q. And how did he make those assurances?</p> <p>10 A. Pardon?</p> <p>11 Q. How did he make those assurances?</p> <p>12 A. We talked on the telephone repeatedly.</p> <p>13 Q. And when you talked on the telephone</p> <p>14 repeatedly, what assurances, if any, did he</p> <p>15 make to you?</p> <p>16 A. Well, he just said these policies, you know,</p> <p>17 don't worry about them, they last until 95.</p> <p>18 And that is all I was concerned about. I</p> <p>19 assumed that he knew what he was talking</p> <p>20 about.</p> <p>21 Q. They would last to 95 or to 100 or something</p> <p>22 else?</p> <p>23 A. Well, the papers say 100, but my thoughts were</p> <p>24 -- I thought in other areas I saw 95, but my</p> <p>25 thoughts were 95 to 100, but the papers that</p>

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<p style="text-align: right;">Page 25</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 my assurance from him were that I would have</p> <p>3 no concerns about these -- I never planned to</p> <p>4 live to be 95.</p> <p>5 Q. So far so good. And let me ask you this:</p> <p>6 Then is -- on the last page of this document,</p> <p>7 I know you didn't see it. It says, "I</p> <p>8 understand why you and John were concerned</p> <p>9 with an illustration that shows the policies</p> <p>10 running out in 12 to 15 years."</p> <p>11 Does this refresh your recollection that</p> <p>12 sometime in October of 2002 that you were made</p> <p>13 aware of an illustration showing that the</p> <p>14 policy would run out in 12 to 15 years?</p> <p>15 A. No. I wasn't aware of that. No.</p> <p>16 Q. And did you ever express any concern to Hy</p> <p>17 Polakoff or to Chris about that?</p> <p>18 A. I don't recall. No. I had no concerns about</p> <p>19 it so I would never express them to anyone.</p> <p>20 Q. Let me ask you this: After 2002 how frequent</p> <p>21 would you be in contact with Chris Jarvis?</p> <p>22 A. I don't recall specifically.</p> <p>23 Q. Did you ever -- after 2002 did you ever meet</p> <p>24 with him in person?</p> <p>25 A. We had conversations and I had discussed</p>	<p style="text-align: right;">Page 27</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 likely to happen."</p> <p>3 So that was my understanding and that is</p> <p>4 all I cared about. He said it. That is all</p> <p>5 it meant to me.</p> <p>6 Q. So it was likely to happen, but he wasn't</p> <p>7 guaranteeing it; is that correct?</p> <p>8 A. According to him, he said don't worry about it</p> <p>9 so I didn't worry about it.</p> <p>10 Q. Well, where does he say don't worry about it?</p> <p>11 He said he is comfortable with the</p> <p>12 illustrations and, you know, it is a likely</p> <p>13 outcome and it also goes on. I mean,</p> <p>14 "Further, in the unlikely event of minimum</p> <p>15 returns and maximum morality and" --</p> <p>16 A. My understanding is he was running these</p> <p>17 policies and taking care of it. He is a world</p> <p>18 expert. He was taking care of it and I didn't</p> <p>19 have anything to worry about.</p> <p>20 Q. You said you looked at the conclusion.</p> <p>21 "Further, in the unlikely event of minimum</p> <p>22 returns and maximum mortality and</p> <p>23 administrative expenses, there are options</p> <p>24 that can protect John and Lorraine's cash flow</p> <p>25 and their children's estate."</p>
<p style="text-align: right;">Page 26</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 things with Mandell and with that female</p> <p>3 lawyer, as it may be. I know I met with him</p> <p>4 several times, but I can't give you the years,</p> <p>5 no.</p> <p>6 Q. So you met with him several times, but would</p> <p>7 those meetings have taken place before or</p> <p>8 after the insurance policies were sold?</p> <p>9 A. I don't recall.</p> <p>10 Q. And in looking at this letter above the</p> <p>11 conclusion, this is on page 4 of 4. It is</p> <p>12 listed under options and it says, "If we</p> <p>13 noticed bad returns for a few years, we would</p> <p>14 look at a number of options: One, change</p> <p>15 insurance companies."</p> <p>16 Do you recall having any discussions with</p> <p>17 anybody regarding the possibility that you</p> <p>18 might have to change insurance companies if</p> <p>19 you had bad returns for a few years?</p> <p>20 A. All I recall is the conclusion of the letter,</p> <p>21 which says -- Chris Jarvis says: "I am</p> <p>22 comfortable that the illustrations based on</p> <p>23 current assumptions that show John and</p> <p>24 Lorraine's policies lasting beyond age 100,</p> <p>25 are a very accurate depiction of what is</p>	<p style="text-align: right;">Page 28</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Did you at that time with Hy Polakoff</p> <p>3 discuss any of those options?</p> <p>4 A. No.</p> <p>5 Q. Did you discuss with anybody --</p> <p>6 A. No.</p> <p>7 Q. -- any of those options?</p> <p>8 A. No. I just assumed Chris Jarvis knew what he</p> <p>9 was doing and he was taking care of this.</p> <p>10 Q. And did you have any discussions with Hy</p> <p>11 Polakoff about the policies and how they were</p> <p>12 doing at any time?</p> <p>13 A. I don't believe so. No. Hy Polakoff did my</p> <p>14 accounting and he and my wife would deal with</p> <p>15 the final accounting numbers and my insurance</p> <p>16 was with Chris. I don't recall discussing it</p> <p>17 with Hy Polakoff at all, the insurance.</p> <p>18 Q. Then let me ask you this: Then why is Hy</p> <p>19 getting a letter from Chris Jarvis on</p> <p>20 October 9th, 2002, you know, laying out the</p> <p>21 Lincoln policy?</p> <p>22 MR. GRIMM: Objection. Go ahead. You</p> <p>23 can answer.</p> <p>24 A. I don't know.</p> <p>25 Q. Did you mention to Chris Jarvis at any time</p>

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<p style="text-align: right;">Page 29</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 that Hy Polakoff would have to review certain</p> <p>3 things?</p> <p>4 A. No.</p> <p>5 Q. Do you recall giving Chris Jarvis Hy</p> <p>6 Polakoff's contact information?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. Do you recall talking to your wife that we</p> <p>9 needed to refer Chris Jarvis over to Hy</p> <p>10 Polakoff for any reason?</p> <p>11 A. No.</p> <p>12 Q. Do you recall how much money was supposed to</p> <p>13 be -- premium was supposed to be paid into the</p> <p>14 Lincoln policy?</p> <p>15 A. No.</p> <p>16 MR. TRACY: Richard, I don't know if you</p> <p>17 have this document yet. It kind of came in</p> <p>18 late. What I will do is send it to you. If</p> <p>19 it hasn't been printed out yet, let me know.</p> <p>20 It is a production from Friday. I printed out</p> <p>21 pages 26, 27, 28, and 29.</p> <p>22 MR. GRIMM: Yeah. I didn't see that</p> <p>23 production from Friday. Rick was doing that.</p> <p>24 Can you tell me, did you send it to me?</p> <p>25 MR. TRACY: I am sending it to you right</p>	<p style="text-align: right;">Page 31</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 in the illustrations." And then the next</p> <p>3 sentence is: "In particular, Jarvis addressed</p> <p>4 my and Polakoff's concerns that the</p> <p>5 representations and illustrations that Jarvis</p> <p>6 provided with regard to the insurance policies</p> <p>7 were inconsistent with some of the insurance</p> <p>8 company's illustrations."</p> <p>9 Do you recall what those inconsistencies</p> <p>10 were?</p> <p>11 A. Yeah. My understanding was the policy was</p> <p>12 lasting until I was 95 years old and it looked</p> <p>13 like the policy wasn't going to last to 95</p> <p>14 years of age.</p> <p>15 Q. How did you reach that conclusion?</p> <p>16 A. Looking at these numbers and your exhibit</p> <p>17 showing 14 years or something, that I had a</p> <p>18 problem.</p> <p>19 Q. Okay. And when did you review these</p> <p>20 illustrations?</p> <p>21 A. I don't recall specifically.</p> <p>22 Q. Prior to 2002 had you ever purchased life</p> <p>23 insurance before?</p> <p>24 A. No.</p> <p>25 Q. Prior to 2002 had you purchased any type of</p>
<p style="text-align: right;">Page 30</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 now. I sent it to Richard this morning.</p> <p>3 MR. GRIMM: Okay. It was not in the</p> <p>4 uploaded documents, was it?</p> <p>5 MR. TRACY: I think it was late.</p> <p>6 MR. GRIMM: Can we go off?</p> <p>7 MR. TRACY: Yeah. Let's go off. It is</p> <p>8 a good time for a break anyway.</p> <p>9</p> <p>10 (Recess was taken.)</p> <p>11 (Exhibit D was marked for identification.)</p> <p>12</p> <p>13 BY MR. TRACY:</p> <p>14 Q. And, Doctor, do you recall this document?</p> <p>15 A. I believe I did see this. Yes.</p> <p>16 Q. Okay. And if you can, for a second, go back</p> <p>17 to your affidavit, which is Exhibit A, I</p> <p>18 believe.</p> <p>19 If you can show the witness his affidavit.</p> <p>20 And if you go to paragraph 7 and if you read</p> <p>21 it, it says: "By letter dated October 9,</p> <p>22 2002, Jarvis sent a letter (shared with me) to</p> <p>23 Hy Polakoff, our accountant, to address</p> <p>24 concerns about the investment, including to</p> <p>25 give an explanation of the different numbers</p>	<p style="text-align: right;">Page 32</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 insurance?</p> <p>3 A. Not that I recall, other than the liability</p> <p>4 insurance for vehicles and things.</p> <p>5 Q. And what was your understanding based on the</p> <p>6 illustration of how much premium was supposed</p> <p>7 to go into the policy?</p> <p>8 A. I really didn't deal with the premiums. I</p> <p>9 didn't write checks to do that. Whenever</p> <p>10 these would come, I would just give it to my</p> <p>11 wife and say, take care of it and then it</p> <p>12 would be paid. So the exact payments I</p> <p>13 wouldn't know, but I did have an issue with</p> <p>14 these things and Chris Jarvis assured me that</p> <p>15 this was not a problem and so that was all I</p> <p>16 was concerned about.</p> <p>17 Q. Okay. Let's me ask you this: If you look at</p> <p>18 the first page, it seems to indicate to me it</p> <p>19 would be \$600,000 for the first three years of</p> <p>20 the policy. Does that refresh your</p> <p>21 recollection?</p> <p>22 A. I would have -- no. Whatever would be in</p> <p>23 terms of financial payments, I would just say</p> <p>24 yes and give it to my wife and she would take</p> <p>25 care of the payments. The numbers, I wouldn't</p>

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<p style="text-align: right;">Page 33</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 know.</p> <p>3 Q. You would not be interested in, you know,</p> <p>4 whether it is \$1.2 versus \$1.8 million of your</p> <p>5 money?</p> <p>6 MR. GRIMM: Object to the form. You can</p> <p>7 answer.</p> <p>8 A. I don't deal with the writing of checks and</p> <p>9 money and so forth. My understanding was I</p> <p>10 got a life insurance policy that has a benefit</p> <p>11 when I die and it costs money and they told me</p> <p>12 a certain amount of money and I would say,</p> <p>13 just pay it and my wife would pay it.</p> <p>14 Q. Okay. I am sorry. I didn't mean to</p> <p>15 interrupt. What was that certain amount of</p> <p>16 money that you were supposed to pay?</p> <p>17 A. I have no idea. I mean, whatever it was at</p> <p>18 that time, but I don't recall.</p> <p>19 Q. Would you have known then?</p> <p>20 A. She would have told me, yes, at that time, but</p> <p>21 I -- it had to be --</p> <p>22 Q. Do you recall discussing how much money was</p> <p>23 going to go into the Lincoln policy?</p> <p>24 A. No. I don't recall discussing that.</p> <p>25 Q. At any time?</p>	<p style="text-align: right;">Page 35</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 numbers didn't mean anything to me.</p> <p>3 Q. To the best of your recollection, would -- if</p> <p>4 you were putting \$600,000 less into a policy,</p> <p>5 would that -- for a lay person, would that</p> <p>6 effect the performance of the policy?</p> <p>7 A. I don't know.</p> <p>8 Q. Did you ever have a discussion with Chris</p> <p>9 Jarvis about that?</p> <p>10 A. I don't recall. No.</p> <p>11 Q. Okay. Now, let's move ahead. When did you</p> <p>12 find out that there was an issue with the</p> <p>13 policy?</p> <p>14 A. I don't recall specifically, but I think about</p> <p>15 three or four years ago. I don't recall.</p> <p>16 Q. And how did you -- how did that come to your</p> <p>17 attention?</p> <p>18 A. I don't recall specifically.</p> <p>19 Q. Were there any type of tax issues that you</p> <p>20 encountered with the policies?</p> <p>21 A. Tax?</p> <p>22 Q. Yes. Tax.</p> <p>23 A. No. Not that I know of.</p> <p>24 Q. And when -- strike that. At some point --</p> <p>25 strike that.</p>
<p style="text-align: right;">Page 34</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. No.</p> <p>3 Q. And I am going to represent that you,</p> <p>4 Dr. Repicci, instead of \$1.8 million,</p> <p>5 \$1.2 million of premium was paid into the</p> <p>6 policy. Do you recall discussing that with</p> <p>7 your wife or Chris Jarvis or anybody?</p> <p>8 A. I don't recall specifically. No.</p> <p>9 Q. Now, you had indicated that you were, for lack</p> <p>10 of a better word, the ultimate decision maker</p> <p>11 on these policies?</p> <p>12 A. I couldn't hear you. What did you say?</p> <p>13 Q. Okay. Sure. I believe you had indicated</p> <p>14 earlier that you were the decision maker on</p> <p>15 financial matters. Is that fair?</p> <p>16 A. That's correct.</p> <p>17 Q. And to do that -- I mean, for you as the</p> <p>18 decision maker, would you want to know whether</p> <p>19 a policy is going to be illustrated with</p> <p>20 \$1.2 million versus \$1.8 million? A \$600,000</p> <p>21 difference, that would be important to you,</p> <p>22 would it not?</p> <p>23 A. Not really. What was important is I had a</p> <p>24 life insurance policy, which had a certain</p> <p>25 face value outside of my estate. The other</p>	<p style="text-align: right;">Page 36</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Did there come a time when the policy was</p> <p>3 put into an insurance trust?</p> <p>4 A. Yes, but I don't recall exactly when.</p> <p>5 Q. And who was the trustee of the insurance</p> <p>6 trust?</p> <p>7 A. I don't recall.</p> <p>8 Q. Would it refresh your recollection that Julie</p> <p>9 Stone is the trustee of the insurance trust?</p> <p>10 A. That's fine. Yes.</p> <p>11 Q. Okay. I figured. And who is Julie Stone?</p> <p>12 A. My daughter.</p> <p>13 Q. Okay. And do you recall who would have made</p> <p>14 the decision to name Julie Stone the trustee</p> <p>15 of the trust?</p> <p>16 A. I would have made that decision.</p> <p>17 Q. And what did you base that decision on?</p> <p>18 A. Someone has to do this and she is a</p> <p>19 responsible relative.</p> <p>20 Q. Fair enough. And what is Julie Stone's</p> <p>21 financial background?</p> <p>22 A. She was an engineer with Bell Aircraft and she</p> <p>23 has had various jobs since that time.</p> <p>24 Q. Okay. To your recollection, does she have any</p> <p>25 experience in insurance matters?</p>

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<p>1 DR. JOHN A. REPICCI</p> <p>2 A. I don't know about her insurance policy</p> <p>3 experience, no.</p> <p>4 Q. Now, do you recall an LLC called EBI-Repicci,</p> <p>5 LLC?</p> <p>6 A. I recall it, yes.</p> <p>7 Q. And what was it?</p> <p>8 A. I don't understand it. I don't know.</p> <p>9 Q. Best you can. What was it supposed to do, the</p> <p>10 best you can tell us?</p> <p>11 A. I think one of the things was to protect</p> <p>12 against malpractice insurance and aid and</p> <p>13 transfer to my children, the best I can</p> <p>14 understand.</p> <p>15 Q. Do you recall buying a second policy of</p> <p>16 insurance from Lincoln in or about 2006?</p> <p>17 A. I don't recall when I bought it, no. I know I</p> <p>18 bought one, but when, I don't know.</p> <p>19 Q. Fair enough. And what was -- you know, it was</p> <p>20 awhile ago. I will represent to you it was</p> <p>21 the end of 2006, but that being said, what</p> <p>22 were the facts and circumstances behind buying</p> <p>23 that policy?</p> <p>24 A. Well, I was buying policies with Chris Jarvis</p> <p>25 to basically protect my estate. We bought one</p>	<p>1 DR. JOHN A. REPICCI</p> <p>2 Lincoln or Mass Mutual or what have you --</p> <p>3 A. They might just accumulate. I am not sure</p> <p>4 anybody reviewed them. Once I bought the</p> <p>5 policy -- the Mass Mutual policy, we bought</p> <p>6 and it was sort of a settled issue and then</p> <p>7 the issues arose with the Lincoln policy,</p> <p>8 which I never truly understood and EBI, I</p> <p>9 never understood either.</p> <p>10 Q. And who, if you recall, suggested forming EBI,</p> <p>11 if you recall?</p> <p>12 A. I believe these were with Mandell and Jarvis,</p> <p>13 I believe. I don't recall specifically.</p> <p>14 Q. Okay. Did there come a time when you needed</p> <p>15 to unwind EBI?</p> <p>16 A. I didn't understand it and I couldn't</p> <p>17 communicate with Jarvis and I just finally</p> <p>18 gave up on it.</p> <p>19 Q. When you say that you couldn't communicate</p> <p>20 with Jarvis, would do you mean by that?</p> <p>21 A. I tried to contact him and I couldn't get a</p> <p>22 hold of him. Originally I was talking to him</p> <p>23 in California and then he left California and</p> <p>24 I don't know what happened.</p> <p>25 Q. And for how long a period could you not get a</p>
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<p>1 DR. JOHN A. REPICCI</p> <p>2 policy, which I believe was Mass Mutual and we</p> <p>3 were continuing to buy and then he had bought</p> <p>4 these other policies through, I believe,</p> <p>5 Lincoln Life and he was handling the</p> <p>6 purchasing of policies and I don't recall</p> <p>7 anything other than that.</p> <p>8 Q. Was there a separate purpose for this -- I</p> <p>9 will call it the 2006 Lincoln policy, versus</p> <p>10 the earlier one?</p> <p>11 A. Not that I know of, no.</p> <p>12 Q. Were there going to be on the second Lincoln</p> <p>13 policy any tax savings or the like for that?</p> <p>14 A. I don't know.</p> <p>15 Q. And did you deal at all with Mr. Mandell on</p> <p>16 the second Lincoln policy?</p> <p>17 A. I dealt with Mandell, but exactly when and</p> <p>18 what, I don't recall.</p> <p>19 Q. Now, I am going to represent to you that over</p> <p>20 the years Lincoln would send annual statements</p> <p>21 on their policies. Do you recall ever</p> <p>22 reviewing any of them?</p> <p>23 A. No.</p> <p>24 Q. Who, if anyone, would review that type of</p> <p>25 documentation? If you got a paper from</p>	<p>1 DR. JOHN A. REPICCI</p> <p>2 hold of Mr. Jarvis?</p> <p>3 A. I don't know. There was a big gap period there</p> <p>4 and EBI sort of fell through the cracks. I</p> <p>5 don't even truly understand it. So I had a</p> <p>6 problem with EBI and with these two Lincoln</p> <p>7 policies and I don't know what happened to</p> <p>8 either one of them.</p> <p>9 Q. Well, that is a good point. If we go back to</p> <p>10 your affidavit, it looks like -- give me one</p> <p>11 second. Bear with me.</p> <p>12 If you go to page 5, it talks about, "By</p> <p>13 letter dated December 21st, 2007, Jarvis</p> <p>14 provided advice and recommendations." And</p> <p>15 then if you go to the next page: "By letter</p> <p>16 dated January 7th, 2014, I expressed</p> <p>17 concerns."</p> <p>18 Between 2007 and 2014, what, if any,</p> <p>19 communications were you having with</p> <p>20 Mr. Jarvis?</p> <p>21 A. I don't remember any specific communications.</p> <p>22 Q. And so is it fair to say you were not having</p> <p>23 any type of annual meeting with Mr. Jarvis</p> <p>24 between 2007 and 2014?</p> <p>25 A. No. The meetings dropped off at a certain</p>

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<p style="text-align: right;">Page 41</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 time. I don't know when they all occurred. I</p> <p>3 know I had issues with the Lincoln policies</p> <p>4 and the EBI I never truly understood and that</p> <p>5 finally faded away.</p> <p>6 Q. Okay. Right now I just want to focus on the</p> <p>7 communication aspect. Did you have any</p> <p>8 communications with Mr. Jarvis between 2007</p> <p>9 and 2014?</p> <p>10 A. I don't remember specifically, but I do know I</p> <p>11 was having great difficulty with contacting</p> <p>12 information and no information was coming. I</p> <p>13 had difficulty getting a hold of him for one</p> <p>14 reason or another.</p> <p>15 Q. Okay. And what were you trying to get a hold</p> <p>16 of him for?</p> <p>17 A. Well, the issues with these insurance policies</p> <p>18 and the IB -- what is it?</p> <p>19 Q. EBI.</p> <p>20 A. The EBI. I don't understand the EBI so I was</p> <p>21 trying to get in contact with these people.</p> <p>22 Q. And did you say you had issues with the</p> <p>23 insurance between 2007 and 2014?</p> <p>24 A. I don't know. No. I mean, the years, I don't</p> <p>25 recall. I know we took out these policies and</p>	<p style="text-align: right;">Page 43</p> <p>1 DR. JOHN A. REPICCI</p> <p>2</p> <p>3 The following were marked for identification:</p> <p>4 Exhibit E - Letter</p> <p>5</p> <p>6 BY MR. TRACY:</p> <p>7 Q. And do you recognize this letter, Dr. Repicci?</p> <p>8 A. I don't recognize it specifically, but it is a</p> <p>9 letter, yes.</p> <p>10 Q. Okay. Would this be something you would have</p> <p>11 written or would someone have written it on</p> <p>12 your behalf?</p> <p>13 A. Whether I wrote it or someone else wrote it, I</p> <p>14 don't really recall specifically. I agree</p> <p>15 with the information and I did sign the paper</p> <p>16 behind it, yes.</p> <p>17 Q. Okay. And it says: "Dear, Chris. As you are</p> <p>18 well aware, I am having great difficulties</p> <p>19 with the IRS over the insurance policies I</p> <p>20 purchased from Lincoln and Mass Mutual."</p> <p>21 What kind of difficulties were you having</p> <p>22 with the IRS, if you recall?</p> <p>23 A. I don't really recall.</p> <p>24 Q. And did there come a point in time when you</p> <p>25 retained an insurance consultant?</p>
<p style="text-align: right;">Page 42</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 you are giving me years, but I don't know</p> <p>3 which years are which.</p> <p>4 Q. Okay. Would you with Hy Polakoff or with</p> <p>5 anyone review the policies on any kind of</p> <p>6 regular basis after 2007?</p> <p>7 A. No. They were insurance policies and I would</p> <p>8 deal with the insurance people. I wouldn't</p> <p>9 keep up with my accountant for those purposes.</p> <p>10 Q. Okay. And if you got in a statement or --</p> <p>11 well, I think you previously testified that</p> <p>12 you didn't review the statements as they came</p> <p>13 in; is that correct?</p> <p>14 A. No.</p> <p>15 Q. Is that correct, you didn't review it?</p> <p>16 A. No. I just don't review financial things. I</p> <p>17 just don't do it, period.</p> <p>18 Q. Who would?</p> <p>19 A. The mail would come in, I hand it to my wife.</p> <p>20 My wife dealt with the necessary people and I</p> <p>21 don't really -- surprisingly, I don't deal</p> <p>22 with financial issues.</p> <p>23 MR. TRACY: Okay. If you could hand</p> <p>24 him, Richard, I believe it has been uploaded,</p> <p>25 his January 7, 2014, letter.</p>	<p style="text-align: right;">Page 44</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I don't think so, no.</p> <p>3 Q. Does the name -- I believe it is Neill</p> <p>4 Finestone. Does that refresh your</p> <p>5 recollection about that?</p> <p>6 A. It doesn't refresh my recollection, no.</p> <p>7 Q. All right. Well, have you had anyone tell you</p> <p>8 that your insurance policies are worthless?</p> <p>9 A. I don't recall, no. Well, I noticed if they</p> <p>10 expire at age 85, they are worthless. That is</p> <p>11 my conclusion.</p> <p>12 Q. Other than your conclusion, have you discussed</p> <p>13 that with anybody with an insurance</p> <p>14 background?</p> <p>15 A. Not that I recall, no. I may -- maybe Celia</p> <p>16 Clark, but I don't recall.</p> <p>17 MR. TRACY: I will send it to you,</p> <p>18 Richard.</p> <p>19 MR. GRIMM: Yes. Which one is it?</p> <p>20 MR. TRACY: It is a 2015 letter.</p> <p>21 MR. GRIMM: This was in the uploaded</p> <p>22 documents or no?</p> <p>23 MR. TRACY: I don't think it is. I</p> <p>24 think I have 2014, but I don't think I have</p> <p>25 2015. We will have to take a break for a</p>

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<p style="text-align: right;">Page 45</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 second.</p> <p>3</p> <p>4 (Recess was taken.)</p> <p>5 (Exhibit F was marked for identification.)</p> <p>6</p> <p>7 BY MR. TRACY:</p> <p>8 Q. Do you recognize this document, Dr. Repicci?</p> <p>9 A. I don't recognize it, but I see it now. Yes.</p> <p>10 Q. Is that your signature?</p> <p>11 A. Yes, it is.</p> <p>12 Q. Okay. And does this refresh your recollection</p> <p>13 that you retained an insurance policy</p> <p>14 consultant?</p> <p>15 A. Yes.</p> <p>16 Q. And who was that insurance consultant?</p> <p>17 A. I don't know.</p> <p>18 Q. Have you ever spoke to that insurance</p> <p>19 consultant?</p> <p>20 A. I don't recall specifically.</p> <p>21 Q. Do you know if Julie Stone has spoken to that</p> <p>22 insurance consultant?</p> <p>23 A. I don't know.</p> <p>24 Q. Has your wife spoken to that insurance</p> <p>25 consultant?</p>	<p style="text-align: right;">Page 47</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. That's fine, but my question is: The</p> <p>3 consultant has made that determination and how</p> <p>4 did you learn that the consultant had made</p> <p>5 that determination?</p> <p>6 A. He must have given us information somewhere,</p> <p>7 but I don't recall him specifically.</p> <p>8 Q. Did you, to the best of your recollection,</p> <p>9 correspond with the consultant?</p> <p>10 A. I don't recall corresponding, no.</p> <p>11 Q. Do you ever recall getting a report from the</p> <p>12 consultant?</p> <p>13 A. I don't recall specifically, no.</p> <p>14 Q. Okay. In response -- strike that.</p> <p>15 What, if anything, did Mr. Jarvis do in</p> <p>16 response to your letters in 2014 and 2015?</p> <p>17 A. Nothing, I recall.</p> <p>18 Q. Let me ask you this: Did you ever -- after</p> <p>19 you sent the letter in 2014 asking for more</p> <p>20 information about the policy, did Mr. Jarvis</p> <p>21 give you that information?</p> <p>22 A. I don't think so, no.</p> <p>23 Q. Did Mr. Jarvis give you any in-force</p> <p>24 illustrations to show you what could be done</p> <p>25 about the policies?</p>
<p style="text-align: right;">Page 46</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. She may have on a superficial basis, but I</p> <p>3 don't know.</p> <p>4 Q. The company Policy Guard, LLC, does that</p> <p>5 refresh your recollection?</p> <p>6 A. No.</p> <p>7 Q. Does the name Casey Repkin refresh your</p> <p>8 recollection?</p> <p>9 A. The name sounds familiar, but it doesn't</p> <p>10 refresh anything, no.</p> <p>11 Q. Okay. It says in this letter, "In the course</p> <p>12 of the review the consultant has looked at</p> <p>13 several illustrations prepared by Lincoln Life</p> <p>14 over the years and forwarded to me by you, as</p> <p>15 well as several letters and e-mails from you</p> <p>16 to me describing the benefits under these</p> <p>17 policies. The consultant has determined that</p> <p>18 neither of these policies provides insurance</p> <p>19 protection I understand I was getting."</p> <p>20 How did you learn that the consultant had</p> <p>21 made that determination?</p> <p>22 A. Well, that is when we find out that it doesn't</p> <p>23 cover me to age 95. We had three policies.</p> <p>24 Mass Mutual was 95 and these two were not. I</p> <p>25 never did understand it.</p>	<p style="text-align: right;">Page 48</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I don't recall. No.</p> <p>3 Q. Do you recall that certain options were given</p> <p>4 to put more money into the policies?</p> <p>5 A. No. Oh, wait. One second. Yes. I did</p> <p>6 through some sorts. I don't know exactly</p> <p>7 where. I found that I could continue these</p> <p>8 policies with a certain payment of a very</p> <p>9 large amount of money. I did find that the</p> <p>10 policies could be continued. This was a major</p> <p>11 concern of mine. I thought one, would the</p> <p>12 policy die, you know, when it expired? And</p> <p>13 then I found through some source that it could</p> <p>14 be continued at a certain amount of money. I</p> <p>15 did find that out. Exactly how I found that</p> <p>16 out, I don't know.</p> <p>17 Q. Okay. Well, let's take a look at the January</p> <p>18 2015 letter. If you go to bullet point two,</p> <p>19 it says: "On March 5th, 2014, you sent an</p> <p>20 e-mail," -- you, being Chris Jarvis. "Sent an</p> <p>21 e-mail to my advisors stating that by paying</p> <p>22 additional amounts of about \$50,000 a year I</p> <p>23 could lock in the death benefit for this</p> <p>24 policy, which is the early 2002 policy, until</p> <p>25 age 90."</p>

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<p style="text-align: right;">Page 49</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 MR. GRIMM: Matthew, can I stop you?</p> <p>3 Tell me what you are referencing.</p> <p>4 MR. TRACY: Okay. Yeah. We are in the</p> <p>5 January -- this will be, I believe, E. This</p> <p>6 is the May 6th, 2015, letter.</p> <p>7 MR. GRIMM: So this is Exhibit E?</p> <p>8 MR. TRACY: Yes. E and this is on</p> <p>9 page 2.</p> <p>10 MR. GRIMM: Page 2 of Exhibit E?</p> <p>11 MR. TRACY: Yes. It should start on</p> <p>12 March 5th, 2014.</p> <p>13 MR. GRIMM: That's not E.</p> <p>14 MR. TRACY: Do we have an F? There is a</p> <p>15 letter May 6th, 2015. Do you not have a copy</p> <p>16 of it? Off the record.</p> <p>17</p> <p>18 (Off the record.)</p> <p>19</p> <p>20 BY MR. TRACY:</p> <p>21 Q. On page 2 of Exhibit F in paragraph 2, it</p> <p>22 states: "On March 5th, 2014, you sent an</p> <p>23 e-mail to my advisor stating that by paying</p> <p>24 additional amounts of \$50,000 per year I could</p> <p>25 lock in the death benefit for this policy (as</p>	<p style="text-align: right;">Page 51</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 but if it is an insurance consultant, I do.</p> <p>3 A. I don't recall.</p> <p>4 Q. Did you have -- well, you said your advisor</p> <p>5 said to file a lawsuit. Were there any</p> <p>6 discussions -- again, not with your attorney,</p> <p>7 but with anyone else who is not an attorney</p> <p>8 that you should start putting more money into</p> <p>9 these policies?</p> <p>10 A. No. I realized it would probably be more</p> <p>11 money, but with the issues of</p> <p>12 misrepresentation, I had no one to represent</p> <p>13 me, is what it boiled down to. I knew it was</p> <p>14 going to cost me some -- I had two concerns;</p> <p>15 one, it would cost me money, which wasn't a</p> <p>16 big concern, but number two, that the policy</p> <p>17 would expire at 85, 86. That was my biggest</p> <p>18 concern. Finding out it didn't expire at 86</p> <p>19 was a positive, but then how to continue it, I</p> <p>20 didn't know how.</p> <p>21 Q. What, if anything, did the insurance</p> <p>22 consultant discuss with you about continuing</p> <p>23 these policies?</p> <p>24 A. I don't remember any further discussions. He</p> <p>25 just said, take legal action. That is all I</p>
<p style="text-align: right;">Page 50</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 well as Policy No. 7317144) until age 90."</p> <p>3 And my question is: What, if anything,</p> <p>4 did you do in response to that?</p> <p>5 A. Nothing, that I recall.</p> <p>6 Q. Why not?</p> <p>7 A. Well, the line above it says, "These are</p> <p>8 misrepresentations you have made." And so</p> <p>9 since they are misrepresentations, I wouldn't</p> <p>10 act on them.</p> <p>11 Q. But, why is this a misrepresentation about a</p> <p>12 \$50,000 a year -- strike that. Did there come</p> <p>13 a time when Mr. Jarvis said that you would</p> <p>14 have to put more -- strike that.</p> <p>15 Did there come a time in or about 2014</p> <p>16 when Mr. Jarvis said to keep these policies in</p> <p>17 place until age 90, you were going to have to</p> <p>18 put in about \$50,000 more a year in premium?</p> <p>19 A. Apparently these were conversations with my</p> <p>20 advisor, not to me, whoever the advisor was.</p> <p>21 And basically the advisor eventually said I</p> <p>22 should file a lawsuit. So that is all I know.</p> <p>23 Q. Now who was your advisor?</p> <p>24 A. I don't recall.</p> <p>25 Q. Your attorney, I don't want to know about it,</p>	<p style="text-align: right;">Page 52</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 remember.</p> <p>3 Q. Well, as of today what is your understanding</p> <p>4 of when these policies were set to expire?</p> <p>5 A. Pardon?</p> <p>6 Q. As we sit here today, when are these policies</p> <p>7 set to expire, if you don't do anything?</p> <p>8 A. I think the first one expires in two years,</p> <p>9 and the other one a little after that.</p> <p>10 Q. And what -- how do you know that?</p> <p>11 A. That is what they tell me, whoever my advisors</p> <p>12 are looking at the insurance policies. What I</p> <p>13 discussed is to pay these premiums to extend</p> <p>14 these policies, but I don't have to do it for</p> <p>15 two years, apparently. My goal is to pay the</p> <p>16 premiums, continue the policies at some cost,</p> <p>17 whatever it may be. And the insurance company</p> <p>18 won't deal with me because I don't have an</p> <p>19 agent. They refuse to talk to me, the</p> <p>20 insurance company.</p> <p>21 MR. TRACY: Richard, I think I sent</p> <p>22 these this morning. I definitely uploaded</p> <p>23 them this morning. These are the in-force</p> <p>24 illustrations and the history of payments.</p> <p>25 MR. GRIMM: So I have an in-force</p>

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<p style="text-align: right;">Page 53</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 illustration. Are there two of them, one for</p> <p>3 each policy?</p> <p>4 MR. TRACY: Yes.</p> <p>5 MR. GRIMM: Yes. There is one for each</p> <p>6 policy?</p> <p>7 MR. TRACY: Yes. Exactly.</p> <p>8 MR. GRIMM: Okay.</p> <p>9 MR. TRACY: Are we up to G?</p> <p>10 MR. GRIMM: Yeah. How do you want them</p> <p>11 marked? Which one first?</p> <p>12 MR. TRACY: Why don't we do the</p> <p>13 illustrations as G and the payment as H? That</p> <p>14 way we don't have to do four.</p> <p>15 MR. GRIMM: Which policy first?</p> <p>16 MR. TRACY: Put the 26 on top of the</p> <p>17 144.</p> <p>18 MR. GRIMM: Okay. So you want the two</p> <p>19 in-force illustrations as one exhibit?</p> <p>20 MR. TRACY: Yes.</p> <p>21 MR. GRIMM: Okay.</p> <p>22</p> <p>23 The following were marked for identification:</p> <p>24 Exhibit G - In-force illustrations</p> <p>25 Exhibit H - Premiums</p>	<p style="text-align: right;">Page 55</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. And what price did they give you?</p> <p>3 A. I can't recall. I think it was, like, \$1.5</p> <p>4 million or something like that.</p> <p>5 Q. And how was that relayed to you?</p> <p>6 A. Pardon?</p> <p>7 Q. How did you find that out?</p> <p>8 A. Well, I had people dealing with Lincoln to</p> <p>9 find out two things; number one, I was</p> <p>10 concerned that the policy ended and was</p> <p>11 absolutely worthless when it ran out and that</p> <p>12 was a concern. I found that no, it could be</p> <p>13 continued, but there was a major fee to do</p> <p>14 this. I thought I paid significantly for this</p> <p>15 policy, like I did for the Mass Mutual policy,</p> <p>16 but now my understanding is it would cost me</p> <p>17 another 1 point something million dollars to</p> <p>18 continue it and the other policy as well,</p> <p>19 which I was willing to do if I have to do it.</p> <p>20 I mean, it is one of those things.</p> <p>21 The issue is no one has ever told me where</p> <p>22 I can pull the money from to do that in order</p> <p>23 to pay this account. No one had told me. I</p> <p>24 have no agent. No one told me.</p> <p>25 Q. Okay. Let me ask you a couple of things. Who</p>
<p style="text-align: right;">Page 54</p> <p>1 DR. JOHN A. REPICCI</p> <p>2</p> <p>3 BY MR. TRACY:</p> <p>4 Q. If you go to page 6.</p> <p>5 A. Page 6?</p> <p>6 Q. Yeah. Illustrated values as of October 2020</p> <p>7 for policy issued in October of 2002.</p> <p>8 A. Yes.</p> <p>9 Q. And it indicates annual premium outlay</p> <p>10 starting in the year 2018 of \$149,880 and that</p> <p>11 would continue through the year 31, which</p> <p>12 would --</p> <p>13 A. What year would year 31 be?</p> <p>14 Q. That would be -- 31 would be year 2033.</p> <p>15 A. 2033?</p> <p>16 Q. Yes. That would be approximately your 95th</p> <p>17 birthday.</p> <p>18 A. Yes. I have an understanding that to continue</p> <p>19 this policy it would cost me over a million</p> <p>20 dollars. I know that.</p> <p>21 Q. And it would cost you \$149,880 a year, is that</p> <p>22 how that would be --</p> <p>23 A. Well, they give me one specific price for the</p> <p>24 entire period of time. I didn't look at it on</p> <p>25 an individual year basis.</p>	<p style="text-align: right;">Page 56</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 specifically did you talk to that you were</p> <p>3 going to have to pay Lincoln \$1.5 million,</p> <p>4 other than your attorneys?</p> <p>5 A. There was communication some place and I</p> <p>6 believe my wife and my daughter had some</p> <p>7 numbers and so forth, but my understanding was</p> <p>8 that, like, it was 1 point something million</p> <p>9 dollars that had to be paid. And the question</p> <p>10 was: Why is it so much money? Since I</p> <p>11 already had a policy from Mass Mutual that</p> <p>12 covered this and this one doesn't, why is it</p> <p>13 so much money? And number two, when I go to</p> <p>14 pay it, where do I -- I can take the money</p> <p>15 from what kind of account to do this? I still</p> <p>16 have no idea.</p> <p>17 Q. Okay. I understand that. And I appreciate</p> <p>18 it. What I am trying to understand is: Who</p> <p>19 told you about the 1.5 million? Your wife,</p> <p>20 your daughter?</p> <p>21 A. Well, my wife would have informed me of the</p> <p>22 numbers, but where she got it, I don't know.</p> <p>23 Q. Okay. Now, do you recall talking to your</p> <p>24 insurance consultant about any of this about</p> <p>25 these numbers?</p>

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<p style="text-align: right;">Page 57</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 A. I don't recall specifically, no.</p> <p>3 Q. Do you recall talking to Hy Polakoff about</p> <p>4 these numbers?</p> <p>5 A. No.</p> <p>6 Q. Have you discussed these numbers with Chris</p> <p>7 Jarvis?</p> <p>8 A. No. That is my problem.</p> <p>9 Q. Okay. All right. Now, I am going to have</p> <p>10 similar questions for the second illustration,</p> <p>11 which that will be page -- it should be</p> <p>12 page 16. It will say 5 of 9 towards the back.</p> <p>13 THE WITNESS: Show me what he wants.</p> <p>14 MR. GRIMM: I will. Sure. Chris, you</p> <p>15 are on the in-force illustration that shows</p> <p>16 the death benefit of 4,873,216 as of September</p> <p>17 of 2020?</p> <p>18 MR. TRACY: Yes. Policy issued December</p> <p>19 of 2006.</p> <p>20 MR. GRIMM: Yes.</p> <p>21</p> <p>22 BY MR. TRACY:</p> <p>23 Q. And this is indicating that you would be</p> <p>24 paying a premium of \$142,188 through year 26,</p> <p>25 which would be again 2032. I just want to</p>	<p style="text-align: right;">Page 59</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 trust?</p> <p>3 A. I believe he had various rolls in our estate</p> <p>4 planning until he retired and so he retired to</p> <p>5 Florida and I haven't heard from him in years</p> <p>6 other than social contact. And his firm</p> <p>7 continues, but he had nothing more to do with</p> <p>8 it after he retired to Florida. In fact, he</p> <p>9 sent me letters that he would like to get out</p> <p>10 of this trust relationship that he has with</p> <p>11 the insurance policy.</p> <p>12 Q. Okay. And when did he send those letters?</p> <p>13 A. I don't recall, but we left him there, but he</p> <p>14 did express, you know, interest in stopping</p> <p>15 that in the past.</p> <p>16 Q. Okay. And when was the last time you spoke to</p> <p>17 Mr. Polakoff?</p> <p>18 A. Polakoff, I probably talked to him -- I think</p> <p>19 I called him a month ago. I didn't discuss</p> <p>20 anything with him, but I forget what I called</p> <p>21 him about. Something, though -- or did he</p> <p>22 call me? I am not sure which.</p> <p>23 Q. And prior to that, when was the last time you</p> <p>24 had spoken to him?</p> <p>25 A. Really several years ago because his agency</p>
<p style="text-align: right;">Page 58</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 confirm that it was your understanding that if</p> <p>3 you paid this, the policy would remain</p> <p>4 enforced; is that correct?</p> <p>5 A. That's my understanding, yes.</p> <p>6 Q. Now, the next exhibit are the total payments</p> <p>7 to date and that is short enough. I would</p> <p>8 have that as a -- you know what, let's make</p> <p>9 these two separate ones. That will be easier.</p> <p>10 Are we up to exhibit I?</p> <p>11 MR. GRIMM: We had marked as Exhibit H</p> <p>12 the premiums on both.</p> <p>13 MR. TRACY: That's fine. You know, in</p> <p>14 retrospect, I probably would have split them,</p> <p>15 but that's fine.</p> <p>16 MR. GRIMM: Okay.</p> <p>17</p> <p>18 BY MR. TRACY:</p> <p>19 Q. Looking at exhibit H, Dr. Repicci, looking at</p> <p>20 page 1 of this document.</p> <p>21 A. Yes.</p> <p>22 Q. It's addressed to Repicci Irrevocable Family</p> <p>23 Trust, Julies Stone, Trustee, Hy Polakoff,</p> <p>24 Trustee. Did there come a time when Hy</p> <p>25 Polakoff was named trustee of the insurance</p>	<p style="text-align: right;">Page 60</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 handles the business and they may talk to him,</p> <p>3 I suppose, but I still have his agency that</p> <p>4 runs my stuff.</p> <p>5 Q. Okay. Now, going to -- this will be the third</p> <p>6 page and this is on the policy 144 and it</p> <p>7 indicates, premium was paid on 12/21/2006 of</p> <p>8 \$488,842 and then 11 years later on 11/6/2017</p> <p>9 payment was made of \$109,167. And then even</p> <p>10 though it is split up, on 8/6/2018 another</p> <p>11 payment of \$109,167 was made.</p> <p>12 With respect to the 2017 and 2018</p> <p>13 payments, what were the circumstances behind</p> <p>14 making those payments, if you know?</p> <p>15 A. Now, these were paid?</p> <p>16 Q. Yes.</p> <p>17 A. I don't know. My wife paid them. It probably</p> <p>18 came as a bill and she paid it. I don't know.</p> <p>19 Q. And when you say she would have paid it, who</p> <p>20 are you referring to?</p> <p>21 A. My wife. My wife or maybe my daughter. In</p> <p>22 2018 probably my wife.</p> <p>23 Q. Did there come a time when your wife stopped</p> <p>24 making payments?</p> <p>25 A. No. She still makes payments, but my daughter</p>

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<p style="text-align: right;">Page 61</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 is running some things as well.</p> <p>3 Q. And what -- to the best of your recollection,</p> <p>4 what does your daughter run and what does your</p> <p>5 wife run?</p> <p>6 A. When a bill comes in, my wife looks at it and</p> <p>7 pays accordingly and if it is something that,</p> <p>8 you know, is in my daughter's category, she</p> <p>9 pays it and I rely totally on them in terms of</p> <p>10 payments.</p> <p>11 Q. Okay. And then with respect to -- it would be</p> <p>12 on page 6.</p> <p>13 A. Page 6 of which one?</p> <p>14 Q. There should be three more pages.</p> <p>15 A. There are only three pages.</p> <p>16 MR. GRIMM: Are you back on G?</p> <p>17 MR. TRACY: This is on the premium</p> <p>18 payments. I thought you combined those two.</p> <p>19 MR. GRIMM: I only have two pages on the</p> <p>20 premium payments.</p> <p>21 MR. TRACY: Oh, that's fine then. Let</p> <p>22 me see what it looks like, if you can just</p> <p>23 show me on the camera. Oh, fine. That's</p> <p>24 fine. Page 2.</p> <p>25</p>	<p style="text-align: right;">Page 63</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 you utilized any other stock brokers?</p> <p>3 A. None.</p> <p>4 Q. And have you -- other than the Mass Mutual and</p> <p>5 the two Lincoln policies, have you purchased</p> <p>6 any other life insurance policies in the last</p> <p>7 20 years?</p> <p>8 A. No.</p> <p>9 Q. Do you recall being the plaintiff in a</p> <p>10 litigation with a Roy Porter doing business as</p> <p>11 Roy's Diner?</p> <p>12 A. No.</p> <p>13 Q. It would have been in Supreme Erie.</p> <p>14 A. What was this?</p> <p>15 Q. For the record, it was yourself versus a Roy</p> <p>16 Porter doing business as Roy's Diner?</p> <p>17 A. I don't recall.</p> <p>18 Q. It was awhile ago. I will represent that as</p> <p>19 well. It was the early 2000s.</p> <p>20 And I may have asked this, I apologize.</p> <p>21 Who formulated the investment trust? Was that</p> <p>22 Celia Clark or someone else?</p> <p>23 A. I don't recall specifically. It may be --</p> <p>24 probably very well Clark, but I don't recall</p> <p>25 specifically.</p>
<p style="text-align: right;">Page 62</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 BY MR. TRACY:</p> <p>3 Q. And that is the \$1.2 million in total premium</p> <p>4 on 10/10/2002, 10/30/2003.</p> <p>5 To your knowledge, is that an accurate</p> <p>6 depiction of what you paid in premium on</p> <p>7 policy 7146026?</p> <p>8 A. If she says she paid it, she paid it. I don't</p> <p>9 really know.</p> <p>10 Q. Now --</p> <p>11 A. We have no communication with Lincoln. They</p> <p>12 won't communicate with us so I have no idea</p> <p>13 what all of this is.</p> <p>14 MR. TRACY: Excuse me one second. I am</p> <p>15 going to mute myself for one second.</p> <p>16 (Off the record.)</p> <p>17 MR. TRACY: Sorry about that.</p> <p>18</p> <p>19 BY MR. TRACY:</p> <p>20 Q. Okay. Other than Hy Polakoff and his firm,</p> <p>21 have you utilized any other accounting firms</p> <p>22 in the last 20 years?</p> <p>23 A. No.</p> <p>24 Q. Other than Merrill Lynch, have you -- and</p> <p>25 Fisher Investments and Marine Midland, have</p>	<p style="text-align: right;">Page 64</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. And would there be somebody who would know</p> <p>3 that for certain?</p> <p>4 A. My wife might know.</p> <p>5 Q. In or about 2002 when you were discussing the</p> <p>6 insurance with Mr. Jarvis, did you communicate</p> <p>7 his ideas with anybody else?</p> <p>8 A. Not that I recall, no.</p> <p>9 Q. Would you have discussed it with anyone at</p> <p>10 Merrill Lynch, for example?</p> <p>11 A. No.</p> <p>12 Q. How about Marine Midland or Fisher</p> <p>13 Investments?</p> <p>14 A. No.</p> <p>15 Q. Would your wife have communicated those ideas</p> <p>16 with anybody else?</p> <p>17 A. No.</p> <p>18 Q. From 2002 to 2007 did you recommend Mr. Jarvis</p> <p>19 to any of your friends or colleagues?</p> <p>20 A. From time to time there -- he would be at</p> <p>21 periodic places and at any time I would</p> <p>22 mention that I recommend him highly.</p> <p>23 Q. When you say at periodic places, do you mean</p> <p>24 medical conferences, things of that nature?</p> <p>25 A. Yeah. He was visible in a lot of ways at that</p>

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<p style="text-align: right;">Page 65</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 time and I may or may not have discussed it</p> <p>3 with friends of mine. I don't recall, but if</p> <p>4 I did it was always on a positive basis. I</p> <p>5 was impressed with him.</p> <p>6 Q. What was -- to your recollection, what was</p> <p>7 Mr. Polakoff's impression of him?</p> <p>8 A. I don't really -- Mr. Polakoff did the</p> <p>9 accounting at a distance. I had very little</p> <p>10 contact with him. We sent him the papers, he</p> <p>11 filled them out, and that was about it. As I</p> <p>12 said, we started our original accounting with</p> <p>13 his firm before his time. That was my</p> <p>14 father-in-law's company and -- my</p> <p>15 father-in-law's company did business with him</p> <p>16 and my wife continued and I don't have much to</p> <p>17 do with accounting or finances. My wife</p> <p>18 handles all of that.</p> <p>19 Q. With respect to the medical practice you had</p> <p>20 with your daughter and son-in-law, was that</p> <p>21 done through an LLC or some other kind of</p> <p>22 business entity?</p> <p>23 A. I believe it was an LLC, yes.</p> <p>24 Q. And what was the name of that LLC?</p> <p>25 A. Probably Repicci Romanowski.</p>	<p style="text-align: right;">Page 67</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 today.</p> <p>3 A. Okay.</p> <p>4 Q. I just wanted to know, the insurance trust</p> <p>5 initially had an address in the Virgin</p> <p>6 Islands. Do you know what that was about?</p> <p>7 A. I never really understood all of that.</p> <p>8 Basically, that was set up by these people as</p> <p>9 it may be. I never truly understood it. It</p> <p>10 got to the point where I was supposed to pay a</p> <p>11 payment to the Virgin Islands to maintain it</p> <p>12 and they wouldn't accept a bank check and so I</p> <p>13 couldn't get any information on it. And so it</p> <p>14 more or less faded away. I never understood</p> <p>15 it.</p> <p>16 Q. Did you have a residence in the Virgin</p> <p>17 Islands?</p> <p>18 A. No. I had this account in the Virgin Islands</p> <p>19 and I was supposed to be paying something like</p> <p>20 \$300 a year to maintain it and they would not</p> <p>21 accept the check from the bank. And so one</p> <p>22 time I paid for it on a credit card and then I</p> <p>23 had this account in Las Vegas that I never</p> <p>24 truly understood and basically, it just sort</p> <p>25 of faded away. I never utilized it in any</p>
<p style="text-align: right;">Page 66</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 Q. Is it still in existence or --</p> <p>3 A. No. We sold the practice.</p> <p>4 Q. And when was it sold?</p> <p>5 A. Two years ago.</p> <p>6 Q. Okay. And prior to 2002, had you ever met</p> <p>7 with a certified financial planner?</p> <p>8 A. No.</p> <p>9 Q. Had you had a will prepared as of 2002?</p> <p>10 A. I have had wills, yes.</p> <p>11 Q. And who would have prepared those?</p> <p>12 A. I don't know. I would have to ask my wife. I</p> <p>13 have forgotten.</p> <p>14 MR. TRACY: And for today -- I just want</p> <p>15 to look at this for about -- Richard, I just</p> <p>16 want to look my notes over for about five</p> <p>17 minuets and then for today I think we are</p> <p>18 finished.</p> <p>19 MR. GRIMM: Sure. We will take five and</p> <p>20 then give me the sign when you are ready.</p> <p>21</p> <p>22 (Recess was taken.)</p> <p>23</p> <p>24 BY MR. TRACY:</p> <p>25 Q. Okay. Just a couple follow-up things for</p>	<p style="text-align: right;">Page 68</p> <p>1 DR. JOHN A. REPICCI</p> <p>2 way. I never understood it and I couldn't get</p> <p>3 any information.</p> <p>4 Q. Okay. Also, if you could look at the</p> <p>5 affidavit, Exhibit A, real quick. If you look</p> <p>6 at paragraph 16 -- actually, I will back up to</p> <p>7 15. It is a letter dated January 17, 2014.</p> <p>8 "I expressed concerns to Jarvis regarding</p> <p>9 difficulties with the IRS over the insurance</p> <p>10 policies we purchased form Lincoln and Mass</p> <p>11 Mutual. I asked for clarification on several</p> <p>12 issues, including representation that "the</p> <p>13 insurance would be enforced until over age</p> <p>14 100." A copy of that letter is annexed hereto</p> <p>15 as Exhibit I." We have already looked at</p> <p>16 that.</p> <p>17 In response Jarvis sent a letter providing</p> <p>18 "The Mass Mutual's policy is guaranteed. The</p> <p>19 other two Lincoln polices are not. I have</p> <p>20 created a grid to show what we have and what</p> <p>21 we recommend you do. By paying about \$50,000</p> <p>22 per year he can lock in the death benefits for</p> <p>23 Lincoln on both policies until age 90. My</p> <p>24 recommendation is to pay the \$50,000 per year</p> <p>25 per policy for the next five to seven years</p>

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<p>1 DR. JOHN A. REPICCI</p> <p>2 and see where the policies are under different</p> <p>3 assumptions and economic conditions."</p> <p>4 Do you recall having any discussion with</p> <p>5 Hy Polakoff about that?</p> <p>6 A. No.</p> <p>7 Q. Did you come to learn that Mr. Jarvis had</p> <p>8 recommended paying \$50,000 a year per policy</p> <p>9 in 2014?</p> <p>10 A. I don't recall specifically, but I also had</p> <p>11 concerns in that the Mass Mutual policy was</p> <p>12 okay. The other two were not. I didn't</p> <p>13 understand it and I can't communicate with</p> <p>14 Mr. Jarvis and so it sort of dangled at that</p> <p>15 pint.</p> <p>16 Q. And why couldn't you communicate with</p> <p>17 Mr. Jarvis?</p> <p>18 A. I couldn't get in contact with him for one</p> <p>19 reason or another. I don't know exactly why.</p> <p>20 I tried, I believe, California and then Texas</p> <p>21 and finally I called Celia Clark and that is</p> <p>22 about all I could find. And since then I have</p> <p>23 been dangling and picking up little</p> <p>24 information here and there, but I had no kind</p> <p>25 of communication with my agent and I need an</p>	<p>1 STATE OF NEW YORK)</p> <p>2) ss.</p> <p>3 COUNTY OF ERIE)</p> <p>4</p> <p>5</p> <p>6 I, Brooklyn Morton, Notary Public, in and for</p> <p>7 the County of Erie, State of New York, do</p> <p>8 hereby certify:</p> <p>9</p> <p>10 That the witness whose testimony appears</p> <p>11 hereinbefore was, before the commencement of</p> <p>12 their testimony, duly sworn to testify the</p> <p>13 truth, the whole truth and nothing but the</p> <p>14 truth; that said testimony was taken pursuant</p> <p>15 to notice at the time and place as herein set</p> <p>16 forth; that said testimony was taken down by</p> <p>17 me and thereafter transcribed into</p> <p>18 typewriting, and I hereby certify the</p> <p>19 foregoing testimony is a full, true and</p> <p>20 correct transcription of my shorthand notes so</p> <p>21 taken.</p> <p>22</p> <p>23 I further certify that I am neither counsel</p> <p>24 for nor related to any party to said action,</p> <p>25 nor in anyway interested in the outcome</p> <p>thereof.</p> <p>IN WITNESS WHEREOF, I have hereunto</p> <p>subscribed my name and affixed my seal on this</p> <p>2nd day of August, 2021.</p> <p><i>Brooklyn Morton</i></p> <p>Brooklyn Morton</p>
<p>1 DR. JOHN A. REPICCI</p> <p>2 agent.</p> <p>3 MR. TRACY: Like I said, subject to what</p> <p>4 I am going to review on the additional</p> <p>5 discovery, and like I said, I am reserving the</p> <p>6 right to call you back. I am going to have no</p> <p>7 further questions for the witness today. We</p> <p>8 are done for today.</p> <p>9 THE WITNESS: Okay. Thank you.</p> <p>10 THE REPORTER: Can you please state your</p> <p>11 orders for the record and obligation for the</p> <p>12 same?</p> <p>13 MR. GRIMM: PDF is fine.</p> <p>14 MR. TRACY: PDF is fine.</p> <p>15</p> <p>16 (Deposition concluded at 12:30 p.m.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 E R R A T A S H E E T</p> <p>2 Case Caption: _____</p> <p>3 DEPONENT: _____ DATE TAKEN: _____</p> <p>4 I wish to make the following changes, for the</p> <p>5 following reasons:</p> <p>6 PAGE LINE CHANGE:</p> <p>7</p> <p>8 REASON: _____</p> <p>9 PAGE LINE CHANGE: _____</p> <p>10</p> <p>11 REASON: _____</p> <p>12 PAGE LINE CHANGE: _____</p> <p>13</p> <p>14 REASON: _____</p> <p>15 PAGE LINE CHANGE: _____</p> <p>16</p> <p>17 REASON: _____</p> <p>18 PAGE LINE CHANGE: _____</p> <p>19</p> <p>20 REASON: _____</p> <p>21 PAGE LINE CHANGE: _____</p> <p>22</p> <p>23 REASON: _____</p> <p>24 PAGE LINE CHANGE: _____</p> <p>25</p> <p>Signature: _____</p> <p>Subscribed and sworn to before me this</p> <p>_____ day of _____ 2021.</p> <p>_____ Notary Public</p>

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<p>1 CERTIFICATE OF WITNESS</p> <p>2</p> <p>3 I, the undersigned, have read the</p> <p>4 foregoing transcript, and the same is true and</p> <p>5 correct, save and except for the changes</p> <p>6 and/or corrections, if any, as indicated to by</p> <p>7 me on the errata sheet attached hereto.</p> <p>8</p> <p>9</p> <p>10 (Signed): _____</p> <p>11</p> <p>12 Dated: _____</p> <p>13</p> <p>14 Subscribed and sworn to me before this</p> <p>15 ____ day of _____, 20__.</p> <p>16 _____</p> <p>17 Notary Public</p> <p>18 My commission expires _____</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	